

REMARKS

Applicant has amended this application in response to the office action. Claim 1 now includes the limitations that were found in claim 2, plus the added limitation that the side shield moves with the panel as the panel moves between the vent and closed positions. The prior art cannot meet the limitations now found in claim 1. Claim 8 is similar to claim 1 but more narrowly claims the shape.

In the office action, the examiner pointed to the Japanese publication as showing a side shield having the claimed non-rectangular shape. In fact, the Japanese publication appears to show nothing more than the shape that was found in the prior art (see Fig. 2) admitted to in this application. The corrugated side shield of the Japanese reference has a rectangular shape, such as is clear from Figure 2, for example. As such, the Japanese reference does not include the shape now required by claims 1 or 8.

Notably, applicant's representative had a telephone interview with Examiner Pedder. It is believed Examiner Pedder recognizes that the Japanese reference cannot properly meet this claim. However, Examiner Pedder pointed to the Bohm, et al. reference, and to the Paerisch, et al. reference to show other shields that have the required shape. Bohm, et al. is owned by ArvinMeritor GmbH. ArvinMeritor GmbH, and ArvinMeritor Technology, LLC (the assignee of this application) are ultimately commonly owned. At the time the invention of the present application was made, the Bohm, et al. published application and the present application were thus ultimately owned by the same entity. As such, Bohm, et al. is not a proper reference under 35 USC §103.

As mentioned, the examiner also pointed to the Paerisch, et al. reference as potentially showing the claimed shape. However, the screens 26 in Paerisch, et al. are not fixed to move with the panel, but rather simply snap upwardly as the panel moves. This is clear, for example, in the figures shown on the front page of the Paerisch, et al. patent. There would be no motivation to move such a shape into, for example, the admitted prior art of Figure 2, since the admitted prior art side shield of Figure 2 is fixed to move with the window, and not to simply be biased to pivot upwardly. Since the two devices are performing two distinct functions, there is no suggestion to utilize the shape of Paerisch, et al. into the admitted prior art. Moreover, the new claims 12 and 13 more clearly recite other distinctions.

Finally, the examiner had rejected claim 2 under 35 USC §112, due to the presence of a "negative" limitation. In fact, the term "non-rectangular" is not a negative limitation. Non-rectangular is a positive description of a shape, and is definite, and understandable as a mathematical description. Reconsideration of the rejection is requested.

For the reasons set forth above, the allowance of all claims is in order.

Respectfully submitted,

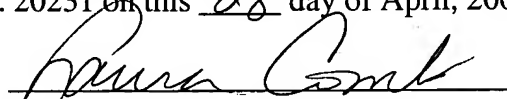


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CERTIFICATE OF MAIL

I hereby certify that the enclosed Response is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Assistant Commissioner of Patents, Washington D.C. 20231 on this 28 day of April, 2004.



Laura Combs